

Flam 2A-restriction

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Serial Number 09/818,722

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Election  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Flam et al.
Serial Number	: 09/818,722
For	: APPARATUS AND MEHTODS FOR PREVENTING AND/OR HEALING PRESSURE ULCERS
Filed	: 03/27/01
Examiner	: M. Brown
Art Unit	: 3764

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

In response to the office action dated 10/03/03 requesting election/restriction, Applicants elect to prosecute the set of claims identified by the Examiner as Group I which includes claims 1-40, 67-76 and 87-90.

However, Applicants traverse the restriction requirement as to claim 41-50 identified by the Examiner as Group II. It is submitted that claims 41-50 should be examined together with the claims in Group I (i.e., claims 1-40, 67-76 and 87-90).

By way of example, independent claim 41 is directed to a method for protecting selected body parts which includes the steps of ascertaining a body part prone to the development of a pressure ulcer and applying to such a body part **"... a protective device having an inner surface conforming to the body part and having an outer surface suitable for making contact with the support surface for enabling the weight associated with each one of said body parts to be distributed over an extended area and volume. "**

It is submitted that claim 41 is not patentably distinct species of the invention claimed in claim 1 which also calls for **" a protective device to be applied to the body part to be protected; said protective device having an inner surface conforming to the body part to which it is applied and having an outer surface suitable for making contact with the support structure; and said protective device having sufficient thickness and softness to distribute the weight of the body part over an extended area and volume to reduce the pressure exerted ..."**

It should be evident from the above that claims 1 and 41 are drawn to similar subject matter and these claims should be examined in the same application even though claim 1 is drawn to a prosthesis and claim 41 to a method.

It can be similarly shown that claim 41 is not a patentably distinct species of the invention claimed in independent claims 24, 35, 40 and 87 and in other claims which the Examiner has included in Group I.

Claim 42 dependent from claim 41 and claim 43 dependent from claim 42 should be examined together with claim 41.

Claim 44 dependent from claim 41 and claim 45 dependent from claim 44 are directed to subject matter which is not patentably distinct from the claims in Group I.

This is also the case for claims 46, 47, 48 and 49, dependent directly or indirectly from claim 41.

Similarly, claim 50 dependent from claim 41 should be examined in the same application as claim 41.

Therefore, claims 41-50 (Group II) should be examined together with the set of claims grouped in Group I.

NOTE: The Examiner's attention is directed to the fact that claims 51-60 were not identified in the office action. These claims are directed to a kit of protective devices having the characteristics of the prosthetic or protective devices claimed in Group I and Group II. It is not clear in which category the Examiner intends to group this set of claims.

Claims 61-64, grouped in Group III, are directed to a "garment" to be worn by a user and which would include protective devices of the type claimed in Groups I and II.

Claims 65 and 66 (grouped in Group IV by the Examiner) are directed to a system which includes a garment to be used so as provide protection against pressure ulcers. Accordingly claims 65 and 66 should be examined together with claims 61-64.


Claims 77-78 grouped in Group V by the Examiner are directed to protective devices with a hard shell. **Note:** claims 79-82 were not mentioned by the Examiner. It would seem that these claims should be grouped together with claims 77 and 78 from which they depend directly or indirectly.

Claims 83-84 are grouped in Group VI and claims 85-86 are grouped in Group VII. It is submitted that claims 85 and 86 should be examined together with claims 83-84.

In conclusion Applicants provisionally elect to prosecute the claims included in Group I and traverse the restriction requirement as to claims 41-40 (group II).

The Examiner is also requested to reconsider the restriction requirement of the remaining claims.

Respectfully submitted

  
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